

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education
(Amended After Comments)

703 KAR 5:280. School Improvement Procedures.

RELATES TO: KRS 158.6453, 158.6455, 158.782, 160.346, 20 U.S.C. 6301

STATUTORY AUTHORITY: KRS 156.029(7), 156.070(5), 158.6453, 158.6455, 160.346, 20 U.S.C. 6301

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.029(7) indicates the primary function of the Kentucky Board of Education (KBE) is to adopt policies and administrative regulations by which the Kentucky Department of Education (department) shall be governed in planning and operating programs within its jurisdiction. KRS 156.070(5) requires the KBE, upon the recommendation of the Commissioner of Education, to establish policy or act on all programs, services, and other matters which are within the administrative responsibility of the department. KRS 158.6453(3)(a) vests in the KBE the responsibility to create an assessment system that measures achievement of the state learning goals, ensures compliance with Title I of the federal Elementary and Secondary Education Act of 1965 (ESEA), 20 U.S.C. sec. 6301, et seq., as amended by the Every Student Succeeds Act (2015) or its successor, and ensures school accountability. KRS 158.6455 requires the KBE to create an accountability system to classify schools and LEAs, and to establish appropriate consequences for schools failing to meet their accountability measures. KRS 158.782 requires the KBE to promulgate administrative regulations establishing the process for monitoring and periodic review of a school's turnaround for schools identified for comprehensive support and improvement under KRS 160.346. KRS 160.346 defines comprehensive and targeted support and improvement and establishes the process for the required audit and turnaround efforts for schools identified for comprehensive support and improvement. Additionally, KRS 160.346 requires the creation of state-wide exit criteria for identified schools, additional action to support schools continuously not meeting improvement goals, and additional supports for LEAs with a significant number of schools identified for comprehensive and targeted support and improvement. Section 1111(c) of Title I of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, (20 U.S.C. 6311(c) and (d)) requires the KBE to identify the state's lowest achieving schools as schools identified for comprehensive support and improvement and for those schools to follow the requirements of 20 U.S.C. 6311(c) and (d) regarding school improvement. This administrative regulation establishes the process and procedures for school improvement efforts.

Section 1. Definitions. (1) "Adequate performance progress" means:

- (a) Meeting the exit criteria outlined in KRS 160.346(2)(b); and
- (b) Meeting the exit criteria outlined in KRS 160.346(2)(a).
- (2) "Advisory leadership team" means the team established in KRS 160.346(7)(g);
- (3) "Annual improvement" means a school reaches annual goals, established by the department, in the areas that led to identification for comprehensive support and improvement;
- (4) "Audit" means the process outlined in KRS 160.346(5) and (6);
- (5) "Audit team" means the team selected by the LEA pursuant to KRS 160.346(5) to complete a school and district audit;
- (6) "Charter school" means a "public charter school" as defined in KRS 160.1590(12);
- (7) "Charter school board of directors" or "governing board" has the same meaning as in

KRS 160.1590(6);

(8) "Comprehensive Support and Improvement" means the process for schools identified pursuant to KRS 160.346(3);

(9) "District" or "school district" means the local school district governed by a local board of education;

(10) "District audit" means an audit that:

(a) Reviews the functioning of the district and the district's ability to manage an intervention in a school identified for comprehensive support and improvement; and

(b) Meets the requirements of KRS 160.346(6);

(11) "Evidence based interventions" has the same meaning as in the Elementary and Secondary Education Act, as reauthorized by the Every Student Succeeds Act (2015), 20 U.S.C.A § 7801;

(12) "Local education agency" or "LEA" means a local school district as provided in KRS 160.010 and KRS 160.020 or a charter school board of directors as provided in KRS 160.1590;

(13) "Minority" has the same meaning as in KRS 160.345(1)(a);

(14) "School audit" means an audit that:

(a) Reviews the functioning of a school;

(b) Assesses principal capacity for leadership of school turnaround; and

(c) Meets the requirements of KRS 160.346(6);

(15) "School improvement assistance" means a program designed by the department to support improved teaching and learning;

(16) "School improvement plan" means the plan created by schools identified for targeted support and improvement pursuant to KRS 160.346(4) and is embedded in the comprehensive school improvement plan required pursuant to 703 KAR 5:225;

(17) "Targeted Support and Improvement" means the process for schools identified pursuant to KRS 160.346(2);

(18) "Turnaround plan" means the plan created pursuant to KRS 160.346(1)(e) and is embedded in the comprehensive school improvement plan required under 703 KAR 5:225; and

(19) "Turnaround team" means the team selected pursuant to KRS 160.346(1)(f).

Section 2. Notification of Status for Comprehensive Support and Improvement. (1) Following notification of a school's identification for comprehensive support and improvement, an LEA shall, within thirty (30) days:

(a) Declare intent to either utilize the department for the audit team or another option available under KRS 160.346(5); and

(b) Declare intent to either utilize the department for the turnaround team or another option available under KRS 160.346(7).

(2) If the LEA declares intent to use any option other than the department for the audit team, the LEA shall provide the following information:

(a) The name(s) and address(es) of all persons included on the audit team;

(b) The role(s) and responsibilities of all persons included on the audit team;

(c) The occupations and any vendor affiliations of all persons included in the audit team; and

(d) The persons' or entity's documented expertise in diagnosing the causes of an organization's low performance and providing advice and strategies resulting in effective turnaround leadership.

(3) If the LEA declares intent to use any other option other than the department for the audit team, the LEA shall ensure that all audit team members report potential conflicts of interest. The LEA shall report these to the department and provide information regarding the LEAs work

to remedy the conflicts of interest.

(4) If the LEA declares intent to use any option other than the department for the turnaround team, the LEA shall provide the following information:

(a) The name(s) and address(es) of the persons or entity fulfilling the status of turnaround team;

(b) The role(s) and responsibilities of the persons or entity fulfilling the status of turnaround team; and

(c) The evidence-based interventions that shall be utilized by the persons or entity fulfilling the status of turnaround team.

(5) Should the LEA utilize a private entity as the turnaround team for a school, the LEA shall submit to the department evidence of the private entity's documented success at turnaround diagnosis, training, and improved performance of organizations.

(6) Upon receipt of the notification and appropriate information from the LEA, within fifteen (15) days the department shall review the proposals for non-department audit teams and turnaround teams and either accept or deny the proposal. Denied proposals shall be returned to the LEA and the department shall advise the LEA to remedy the proposal.

(7) The LEA shall provide the information required in this Section utilizing the "LEA Notification of Non-Department Audit or Turnaround Team" form incorporated by reference in this regulation.

Section 3. Audit Team Membership. (1) For audit teams not directed by the department:

(a) Members of the audit team shall be selected by the LEA from qualified applicants;

(b) The team members shall complete department approved training in any areas needed to effectively perform their duties;

(c) Members shall hold appropriate certification or qualifications for the position being represented;

(d) The team shall not include any members currently employed by or otherwise affiliated with the LEA or school under review;

(e) The audit team shall include the following representation:

1. The chairperson, who shall be designated by the LEA, and shall be;

i. A certified administrator; or

ii. A similarly qualified professional approved by the department.

2. A teacher who is actively teaching or has taught within the last three (3) years;

3. A principal who is currently serving or has served as a principal within the last three (3) years;

4. An LEA administrator who is currently serving or has served in an LEA administrative position within the last three (3) years;

5. A parent or legal guardian who has or has had a school-aged child; and

6. A university representative who is currently serving or has served in that capacity within the last three (3) years;

(f) The chair may serve in addition to the five (5) members outlined in subsection (1)(e) of this section, or may be selected from those six (6) members who also meet the qualifications of subsection (1) of this section.

(2) For audit teams directed by the department:

(a) Members shall be selected from qualified applicants by the department, and approved by the Commissioner of Education, or designee;

(b) Members shall complete department-provided or approved training in any areas needed to effectively perform their duties;

(c) Members shall hold appropriate certification or qualifications for the position being represented;

sented;

(d) The team shall not include any members currently employed by or otherwise affiliated with the LEA or school under review;

(e) The team shall include the following representation:

1. The chairperson, who shall be designated by the department or its designee, and shall be:

i. A certified administrator approved by the department to provide school improvement assistance;

ii. A certified administrator member of the review team; or

iii. A similarly qualified professional approved by the department;

2. An individual approved by the department to provide school improvement assistance;

3. A teacher who is actively teaching or has taught within the last three (3) years;

4. A principal who is currently serving or has served as a principal within the last three (3) years;

5. A LEA administrator who is currently serving or has served in a LEA administrative position within the last three (3) years;

6. A parent or legal guardian who has or has had a school-aged child; and

7. A university representative who is currently serving or has served in that capacity within the last three (3) years.

(f) The chair may serve in addition to the six (6) members outlined in subsection (2)(e) of this section, or may be selected from those six (6) members who also meet the qualifications of subsection (2) of this section.

Section 4. School Audit. (1) Within forty-five (45) days of a school's identification for comprehensive support and improvement, a school audit shall be scheduled.

(2) A school audit shall consist of and incorporate the following into the report, in addition to the requirements of KRS 160.346(6):

(a) Analysis of state and local education data;

(b) An analysis and recommendation regarding the principal's capacity to lead turnaround in a school identified for comprehensive support and improvement and whether or not the principal should be replaced;

(c) Review of comprehensive school improvement plans and other planning documents;

(d) Interviews with students, parents, all school council members, if applicable, school and LEA personnel, and community members;

(e) Direct observation;

(f) Administration of teacher and principal working conditions surveys and student satisfaction surveys;

(g) Review of school council minutes and agendas, if applicable; and

(h) Other information deemed necessary by the Commissioner of Education, or designee.

(3) Where the audit team is directed by the department, the recommendation of the principal's ability to lead the intervention in the school shall be based upon an assessment of whether:

(a) The principal demonstrates maintenance and communication of a visionary purpose and direction committed to high expectations for learning as well as shared values and beliefs about teaching and learning;

(b) The principal leads and operates the school under a governance and leadership style that promotes and supports student performance and system effectiveness;

(c) The principal establishes a data-driven system for curriculum, instructional design, and delivery, ensuring both teacher effectiveness and student achievement;

- (d) The principal ensures that systems are in place for accurate collection and use of data;
- (e) The principal ensures that systems are in place to allocate human and fiscal resources to support improvement and ensure success for all students; and
- (f) The principal ensures that the school implements a comprehensive assessment system that generates a range of data about student learning and system effectiveness and uses the results to guide continuous improvement.

(4) An audit team not directed by the department may utilize the criteria in subsection (3) of this Section for the recommendation of principal capacity. An audit team not directed by the department shall include a recommendation as to the principal's capacity to serve as a leader in school intervention and turnaround at a school identified for comprehensive support and improvement. If that audit team chooses not to use the criteria in subsection (3) of this Section, they shall provide notification to the department as well as the framework to be used in the analysis of principal capacity and submit the criteria that shall be utilized to the department for approval.

(5) Upon identification as a school in need of comprehensive support and improvement, the authority of the school council shall be suspended.

(6) Pursuant to KRS 160.346, the authority of the school council may[shall] be restored if the school is not classified under comprehensive support and improvement status for two (2) consecutive years.

(7) Charter schools shall be subject to a school audit which shall include an addendum providing a determination regarding the governing board's capacity to provide support for turnaround. Each addendum shall include:

- (a) Analysis of state and local education data;
- (b) A review of the governing board's level of functioning and recommendation to the Commissioner of Education as to whether the governing board has the capacity to manage the intervention in the charter school;
- (c) Interviews with governing board members, students, parents, school personnel, authorizer, and community members.
- (d) Direct observations;
- (e) Administration of teacher and principal working conditions surveys and student satisfaction surveys;
- (f) Review of charter school governing board minutes and agendas; and
- (g) Other information deemed necessary by the Commissioner of Education, or designee, to assess the functionality of the governing board to support school improvement.

(8) If the audit team chooses not to use the criteria in subsection (7) of this Section, they shall provide notification to the department as well as the framework to be used in the analysis of the governing board's capacity and submit the criteria that shall be utilized to the department for approval.

Section 5. District Audit. (1) A district shall be subject to a district audit upon identification of a school within the district for comprehensive support and improvement.

(2) Within forty-five (45) days of identification by the department of a district containing a school identified for comprehensive support and improvement, an audit shall be scheduled to review the functioning of the district's administration and its specific leadership capacity related to each school identified for comprehensive support and improvement.

(3) Each district audit shall include:

- (a) Analysis of state and local education data;
- (b) A review of the district's level of functioning and recommendation to the Commissioner of Education as to whether the district has the capacity to manage the intervention in each identi-

fied school;

(c) Review of comprehensive district improvement plan and other planning documents;

(d) Interviews with local board members, students, parents, school and district personnel, and community members;

(e) Direct observation;

(f) Administration of teacher and principal working conditions surveys and student satisfaction surveys;

(g) Review of school board minutes and agendas; and

(h) Other information deemed necessary by the Commissioner of Education, or designee, to assess the functionality of the district to support school improvement.

(4) Where the audit team is directed by the department, the determination of the district's level of functioning and ability to manage the intervention in the school identified for comprehensive support and improvement shall be based upon an assessment of capacity in the following areas:

(a) The district demonstrates maintenance and communication of a visionary purpose and direction committed to high expectations for learning as well as shared values and beliefs about teaching and learning;

(b) The district leads and operates under a governance and leadership style that promotes and supports student performance and system effectiveness;

(c) The district establishes a data-driven system for curriculum, instructional design, and delivery, ensuring both teacher effectiveness and student achievement;

(d) The district ensures that systems are in place for accurate collection and use of data;

(e) The district ensures that systems are in place to allocate human and fiscal resources to support improvement and ensure success for all students; and

(f) The district ensures that a comprehensive assessment system, which generates a range of data about student learning and system effectiveness and uses the results to guide continuous improvement, is implemented.

(5) An audit team not directed by the department may utilize the criteria in subsection (3) of this Section for recommendation to the Commissioner of Education of the district's level of functioning and ability to manage the intervention in the school identified for comprehensive support and improvement, pursuant to KRS 160.346. An audit team not directed by the department shall include a recommendation as to district functioning and capacity to manage the interventions at a school identified for comprehensive support and improvement. If that audit team chooses not to use the criteria in subsection (3) of this Section, they shall provide notification to the department as well as the framework to be used in the analysis of district functioning and capacity to manage the intervention in each identified school to the department for approval.

(6) There shall be only one (1) district audit per district, per year, regardless of the number of schools identified for comprehensive support and improvement located in the district.

Section 6. Notification to Schools and LEAs of Audit Findings. (1) Following any school audit, the audit team shall submit all findings and the principal capacity recommendation to the Commissioner of Education.

(2) Following any charter school or district audit, the district or governing board audit findings and capacity recommendations shall be submitted to Commissioner of Education who shall make a determination regarding the district or governing board's level of functioning and whether the district or governing board has the capacity to manage the intervention in each identified school.

(3) After completion of the initial school or district audits and within thirty (30) days of receiv-

ing the audit findings, the Commissioner of Education shall notify in writing the school, district, or charter governing board and the charter authorizer of the audit findings and recommendation regarding principal or school leader's leadership capacity and authority and a determination regarding district or governing board's leadership capacity and authority. The superintendent shall then make any necessary determination regarding the principal or other certified staff pursuant to KRS 160.346(7)(c)-(e).

Section 7. Turnaround Team and Development of Turnaround Plan for School Identified for Comprehensive Support and Improvement. (1)(a) Within thirty (30) days after the audit findings are released, the turnaround team shall develop a turnaround plan pursuant to KRS 160.346(7)(h). The turnaround team shall be selected pursuant to the requirements of KRS 160.346(7)(a):

(b) Should the LEA utilize a private entity to serve as the turnaround team, pursuant to KRS 160.356(7)(a)(1), the LEA shall ensure compliance with Section 2 of this regulation and provide ongoing oversight of the private entity's work, functioning, and accomplishments as the turnaround team. **[The LEA shall provide this information to the department quarterly.]**

(c) Should the LEA utilize the local staff and community partners to serve as the turnaround team, pursuant to KRS 160.346(7)(a)(2), the LEA shall ensure the following:

1. Schools having eight (8) percent or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member serving on the turnaround team; and

2. At least one (1) parent of a student in the identified school is selected as a member of the turnaround team.

(d) Should the LEA utilize the department to serve as the turnaround team, the turnaround team shall be comprised of team members selected and approved by the Commissioner of Education, or designee, to provide school improvement assistance.

(3) The turnaround plan shall include:

(a) Evidence-based interventions to be utilized to increase student performance and address the critical needs identified in the school audit;

(b) A comprehensive list of persons and entities involved in the turnaround efforts and the specific roles each shall play in the school's turnaround; and

(c) A review of resource inequities which shall include an analysis of school level budgeting to ensure resources are adequately channeled towards school improvement.

(4) The turnaround team shall, no later than thirty (30) days after the turnaround team is on site, present the turnaround plan to the LEA, which shall give final approval, provide the necessary support and resources for the turnaround plan, and submit the turnaround plan to the Commissioner of Education for approval.

(5)(a) Following receipt of the turnaround plan specified in this paragraph and before the beginning of the school year following the audit, the Commissioner of Education in consultation with the advisory leadership team, superintendent, and local board of education, shall determine the sufficiency of the school's turnaround plan to meet the needs of the school's turnaround effort.

(b) If the Commissioner of Education finds that the plan is not sufficient to meet the needs of the school turnaround effort for a school identified for comprehensive support and improvement, the department shall provide feedback detailing the deficiencies and advise the LEA and school to make changes to the plan.

Section 8. Advisory Leadership Team. (1) In establishing the advisory leadership team, the principal or charter school leader shall ensure that schools having eight (8) percent or more

minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member serving on the advisory leadership team.

(2) Meetings of the advisory leadership team shall be open to be public;

(3) Duties of the advisory leadership team shall include:

(a) Providing support for systems that seek to build capacity in school leadership;

(b) Promoting positive school climate and culture; and

(c) Supporting the continual use of data-driven decision-making to support school improvement.

Section 9. Monitoring and Periodic Review of Plan Implementation. (1) Pursuant to the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act, 20 U.S.C.A § 6301, all schools identified for comprehensive support and improvement shall be subject to monitoring and periodic review by the department.

(2) Monitoring shall include:

(a) Onsite support by department staff **when the department is chosen by the LEA to serve as the turnaround team pursuant to KRS 160.346 or when more rigorous intervention by the department is warranted as described in Section 10 of this administrative regulation;**

(b) Annual review of school and LEA state accountability data;

(c) Review of indicators of school quality; and

(d) Other measures deemed necessary by the department to ensure compliance with the Every Student Succeeds Act, or its successor.

(3) **Periodic review of the turnaround plan shall include:**

(a) Periodic site visits;

(b) Direct observation; and

(c) Interviews with students, parents, all school council members, if applicable, school and LEA personnel, and community members~~**[Periodic review of the turnaround plan shall include quarterly reporting on the implementation and results of the turnaround plan. Quarterly reporting shall be submitted to the department].**~~

Section 10. More Rigorous Intervention. (1) Schools identified for comprehensive support and improvement that do not exit that status after three (3) years shall be subject to intervention by the department including but not limited to:

(a) A school audit conducted by the department;

(b) Onsite assistance by department staff; and

(c) Evaluation and modification of the school turnaround plan.

(2) Schools identified for comprehensive support and improvement that do not exit after three (3) years shall be subject to an audit by the department every two (2) years, or as deemed necessary by the Commissioner of Education.

(3) Schools identified for comprehensive support and improvement that do not make annual improvement for two (2) consecutive years shall be subject to intervention by the department, as described in subsections (1) and (2) in this Section, after the second year;

(4) Districts serving any number of schools identified for comprehensive support and improvement that do not exit after three (3) years, or two (2) years as described in subsection (2) of this Section, shall be subject to a district audit. Additional district audits for districts serving schools identified for comprehensive support and improvement that do not exit that status shall occur every two (2) years, or as deemed necessary by the Commissioner of Education. No district, regardless of the number of schools identified for comprehensive support and improvement that fail to exit that status, shall have more than one (1) district audit every two (2) years.

Section 11. Targeted Support and Improvement. (1) Upon identification as a school for targeted support and improvement, the identified school shall comply with the requirements of KRS 160.346(4). The school improvement plan shall be embedded in the comprehensive school improvement plan required pursuant to 703 KAR 5:225;

(2) LEAs with schools identified for targeted support and improvement shall monitor and provide support to the school so as to ensure the successful implementation of the school improvement plan.

Section 12. Significant Number of Schools: (1) In addition to providing notification to LEAs as to the identification of schools for comprehensive support and improvement or targeted support and improvement, the department shall notify LEAs as to whether or not they shall be considered a LEA supporting a significant number of schools identified for either comprehensive support and improvement or targeted support and improvement.

(2) To determine whether a LEA meets this designation, the department shall calculate, based on the total number of A1 schools, as defined in 703 KAR 5:240, in the LEA, the LEA's percentage of schools identified for comprehensive support and improvement and the LEA's percentage of schools identified for targeted support and improvement. Any LEA containing two (2) or more schools identified for comprehensive support and improvement or targeted support and improvement and whose percentage of identified schools exceeds ten (10) percent for either comprehensive support and improvement or targeted support and improvement shall be designated a LEA supporting a significant number of schools identified for either comprehensive support and improvement or targeted support and improvement.

Section 13: Technical Assistance for LEAs Supporting a Significant Number of Schools Identified for Comprehensive Support and Improvement. (1) LEAs supporting a significant number of schools identified for comprehensive support and improvement and shall receive the following technical assistance:

(a) A district audit, or school audit if a charter school, conducted by the department; and

(b) Onsite support from department staff.

(2) The district audit, or school audit if a charter school, completed by the department under subsection (1)(a) of this Section shall take the place of any district or school audit conducted under Sections 4 and 5 of this regulation.

(3) Department staff shall:

(a) Coordinate with the LEA to ensure direct support of schools identified for comprehensive support and improvement;

(b) Review, via the district or school audit, if a charter school, resources and allocations to determine if they are being used effectively for school improvement;

(c) Work with the LEA to address any identified resource inequities that negatively impact schools and students; and

(d) Work with the LEA to develop sustainable systems to support school improvement.

Section 14. Technical Assistance for LEAs Supporting a Significant Number of Schools Identified for Targeted Support and Improvement. (1) LEAs supporting a significant number of schools identified for targeted support and improvement shall receive the following technical assistance:

(a) Periodic site visits; and

(b) Onsite support by department staff.

(2) Department staff shall:

- (a) Review LEA resources and allocations to determine if they are being used effectively for school improvement;
- (b) Provide technical assistance to the LEA regarding resource allocation to support school improvement; and
- (c) Connect LEAs with professional development opportunities to build capacity for school improvement efforts.

Section 15. Exit Criteria. (1) Schools identified for comprehensive support and improvement shall exit that status when:

- (a) They no longer meet the criteria for their identification; and
 - (b) They demonstrate continued progress on the data that were the basis for the identification.
- (2) Schools identified for comprehensive support and improvement as a result of more than one (1) criteria shall exit when all relevant exit criteria are met.
- (3) Schools identified for targeted support and improvement under KRS 160.346(2)(a) shall exit that status when the identified subgroup(s) is no longer below the performance of all students in the bottom five (5) percent of Title I schools or non-Title I schools within that range of Title I schools and demonstrate continued progress on the data that served as the basis for identification.
- (4) Schools identified for targeted support and improvement under KRS 160.346(2)(b) shall exit that status when the identified subgroup(s) is no longer below the performance of all students in the bottom ten (10) percent of Title I schools or non-Title I schools within that range. LEAs may include additional exit criteria at their discretion.

Section 16. Incorporation by Reference. (1) "LEA Notification of Non-Department Audit or Turnaround Team Form", February 2018, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Education, Office of Continuous Improvement and Support, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

STEPHEN L. PRUITT, Ph.D., Commissioner of Education

MARY GWEN WHEELER, Chairperson

APPROVED BY AGENCY: April 11, 2018

FILED WITH LRC: April 12, 2018 at 11 a.m.

CONTACT PERSON: Kevin C. Brown, Associate Commissioner and General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321, email regcomments@education.ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin C. Brown

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: The Elementary and Secondary Education Act (ESEA), as reauthorized by the Every Student Succeeds Act (ESSA), 20 U.S.C. 6301, requires

states receiving Title I Part A funding to adopt a system of accountability and support for low-achieving schools. The state is required to identify schools for comprehensive and targeted support and improvement based on state adopted criteria (that meet federal guidelines) and provide turnaround support for those schools by working with school and district leaders. SB 1 (2017) also requires the Kentucky Board of Education (KBE) to promulgate administrative regulations for the identification of schools for comprehensive and targeted support and improvement, as well as assistance and intervention. This regulation establishes that system of support and ongoing accountability in compliance with ESSA and SB 1 (2017).

(b) The necessity of this administrative regulation: The amendments to this regulation are required for alignment to the State Plan, as submitted to the United States Department of Education. This regulation reflects the essential functions and requirements under Title I Part A, as reauthorized under the ESSA.

(c) How this administrative regulation conforms to the content of the authorizing statute: The regulation conforms to the authority given to the Kentucky Board of Education in KRS 156.060 and KRS 156.070. It also aligns with the requirements under the ESEA, 20 U.S.C. 6301, as reauthorized by the ESSA.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: ESSA requires states to identify schools for comprehensive and targeted support and improvement based on state adopted criteria (that meet federal guidelines) and provide turnaround support for those schools by working with school and district leaders. This regulation establishes that system of support and ongoing accountability in compliance with ESSA.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: NA

(b) The necessity of the amendment to this administrative regulation: NA

(c) How the amendment conforms to the content of the authorizing statute: NA

(d) How the amendment will assist in the effective administration of the statutes: NA

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Those affected by this regulation include: all public schools, school districts, and the KDE as it is tasked with providing guidance, support, technical assistance, and monitoring and periodic review of school improvement plans under ESSA.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: School districts already receive similar support as under No Child Left Behind (NCLB), ESSA's predecessor, and the Kentucky NCLB Waiver. This regulation reflects federal requirements and districts have been part of the transition process since the federal legislation was passed in December of 2015. Schools and local education agencies that are identified will need to develop and implement improvement plans that address the issues that led to their identification. KDE as it is tasked with providing guidance, support, technical assistance, and monitoring and periodic review of school improvement plans under ESSA.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): KDE provides the supports indicated in the regulation through the use of state and federal funding. The school and district level supports come at no charge to schools and districts if conducted by the department. However, SB 1 (2017)

created flexibility for school districts and allows them to select audit teams and turnaround teams not associated with the department. The districts must bear the cost of audit and turnaround teams if they select an entity other than KDE for these services. SB 1 (2017) does provide for some reimbursement for this cost, but it is no more than what the department has budgeted for such costs. KDE has requested for the 2018-2020 biennial budget to include \$500,000 for this reimbursement allowance.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The supports provided in this regulation will lead struggling schools and districts to sustainable turnaround through the implementation of systems that build capacity in school leadership, establish positive school climate and culture, and support continual use of data-driven decision-making to support school improvement.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The KDE is required by ESSA to provide support, monitoring and technical assistance to schools and districts with low-performing schools. This requirement existed prior to the ESSA reauthorization. As a result, there is no initial cost for monitoring and support. Federal funding is utilized for this work. KDE submitted an ABR for the 2018-2020 biennial budget to include \$500,000 for the reimbursement allowance provided for in SB 1 (2017) which allows districts who do not utilize the department for the required audit or turnaround team to seek some reimbursement for those services. The reimbursable amount for those districts is subject to available funds.

(b) On a continuing basis: As a result of the continuing obligation in ESSA to provide support, monitoring and technical assistance to schools and districts, KDE incurs an ongoing cost of staff and resources. State and federal funding is utilized for this work. KDE submitted an ABR for the 2018-2020 biennial budget to include \$500,000 for the reimbursement allowance provided for in SB 1 (2017) which allows districts who do not utilize the department for the required audit or turnaround team to seek some reimbursement for those services. The reimbursable amount for those districts is subject to available funds.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal funding under Title I Part A and state funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: At this point it is unclear as to whether the number of identified schools will increase as a result of the changes in the state accountability system. An increase could result in the need for additional funding or, if none exists, differentiated support.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees or directly or indirectly increase fees.

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all schools and local education agencies.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Local education agencies and KDE.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 156.029(7), 156.070(5), 158.6453,

158.6455, 160.346, 20 U.S.C. 6301

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. With regards to supports offered by the department, this should not have a significant impact as state and federal funding is utilized for this work. Additionally, the supports provided in this regulation are the same as those provided previously under NCLB and the Kentucky Waiver. With regards to the reimbursement available under SB 1 (2017), KDE submitted a request for the 2018-2020 biennial budget to include \$500,000 for the reimbursement allowance provided for in SB 1 (2017) which allows districts who do not utilize the department for the required audit or turnaround team to seek some reimbursement for those services. The reimbursable amount for those districts is subject to available funds.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue.

(c) How much will it cost to administer this program for the first year? The KDE is required by ESSA to provide support, monitoring and technical assistance to schools and districts with low-performing schools. This requirement existed prior to the ESSA reauthorization. As a result, there is no initial cost. Federal funding is utilized for this work. However, with regards to the reimbursement available under SB 1 (2017), KDE submitted a request for the 2018-2020 biennial budget to include \$500,000 for the reimbursement allowance provided for in SB 1 (2017) which allows districts who do not utilize the department for the required audit or turnaround team to seek some reimbursement for those services. The reimbursable amount for those districts is subject to available funds.

(d) How much will it cost to administer this program for subsequent years? As a result of the continuing obligation in ESSA to provide support, monitoring and technical assistance to schools and districts, KDE incurs an ongoing cost of staff and resources. Federal and state funding is utilized for this work. However, with regards to the reimbursement available under SB 1 (2017), KDE submitted a request for the 2018-2020 biennial budget to include \$500,000 for the reimbursement allowance provided for in SB 1 (2017) which allows districts who do not utilize the department for the required audit or turnaround team to seek some reimbursement for those services. The reimbursable amount for those districts is subject to available funds.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): N/A

Expenditures (+/-): N/A

Other Explanation: N/A